IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.17 OF 2006

IN

SUMMARY SUIT NO.3309 OF 2005

Mr.Paresh Kapadia. ...Plaintiff

vs.

1. M/s.Alaknanda Stainless Ltd.
and others. ...Defendants.

Mr.Cyrus Adreshir i/b. M/s.K.Ashar & Co., for Plaintiff.

None for Defendant nos.1 and 2.

Mr.Subodh Joshi with Ms.Radhika L. i/b. P.K.Shroff & co. for Defendant no.3.

CORAM: D.K.DESHMUKH,J.

DATED: 8th June, 2006.

P.C.:-

1. The plaintiff has filed the suit for recovery of the amount. The suit is based on the bill of exchange drawn by defendant no.1 and accepted by defendant no.2. The suit is also based on the cheque issued by the defendant no.2. The defendant nos. 1 and 2 are absent. There are three defendants joined to the suit. But the decree is

claimed only against defendant nos. 1 and 2. The defendant nos. 1 and 2 have been served. According to the plaintiff, the service was effected in the month of February,2006. The plaintiff undertakes to file affidavit of service within a period of one week from today. The Defendants have not filed any affidavit/application seeking leave of the Court to defend the suit. In the absence of any affidavit /application seeking leave of the Court to defend the suit, in terms of Order 37 of C.P.C. the plaintiff is entitled to a judgment.

2. Heard the learned Counsel appearing for the plaintiff. Perused the record. Summons for Judgment is granted. The suit is decreed in terms of prayer clause (a). The defendant no.3, even according to the plaintiff, is not a necessary party to the suit. The plaintiff therefore, is liable to pay cost to defendant no.3. The cost is quantified at Rs.2000/- . Refund of Court fees as per rules.

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